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Attorneys for Plaintiff

MICHAEL CRAM, an individual, d/b/a
PACIFIC PRODUCTIONS,

Plaintiff,

vs.

THE FANATIC GROUP, LLC,

Defendant.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DOCKET NO.

CIVIL ACTION

COMPLAINT:

- (1) INFRINGEMENT OF U.S. PATENT
NO. D55,678S UNDER 35 U.S.C.
§271(a);**
- (2) FEDERAL TRADE DRESS
INFRINGEMENT (LANHAM ACT);**
- (3) FALSE DESIGNATION OF ORIGIN
(LANHAM ACT);**
- (4) UNFAIR COMPETITION IN
VIOLATION OF NEW JERSEY
TRADE-MARKS UNFAIR TRADE
PRACTICES STATUTE; AND**
- (5) COMMON LAW UNFAIR
COMPETITION**

(DEMAND FOR JURY TRIAL)

INTRODUCTION

1. Plaintiff Michael Cram d/b/a/ Pacific Productions (hereinafter "Pacific Productions"), through its attorneys, asserts causes of action including federal trade dress infringement, false designation of origin, unfair competition in violation of state law, and common law unfair

competition against Defendant, The Fanatic Group, LLC (hereinafter "Defendant"). These causes of action arise from Defendant's continued manufacturing and distributing of confusingly similar products, including a musical pen (the "Musical Pen"), which violate Plaintiff's patent rights, and a bottle opening product (the "Talking Bottle Opener"), which violate Plaintiff's trade dress rights, misrepresents the origin of the goods to the consumer public, and are in violation of unfair competition laws. Defendant has willfully engaged in this patent infringement and trade dress infringement in a blatant attempt to confuse the consuming public despite knowing, or should have known, of Plaintiff's well-known existence in the relevant marketplace. Defendant's intent is to flagrantly misrepresent an affiliation with, and pass its goods off as, the Musical Pen and the Talking Bottle Opener (collectively, ("Plaintiff's Products")).

2. Through this course of conduct, Defendant has committed numerous violations of New Jersey State and Federal law, including (1) infringement of a registered patent No. D55,678S under 35 U.S.C. §271(a); (2) federal trade dress infringement of an unregistered trade dress under the Lanham Act; (3) false designation of origin under the Lanham Act; (4) unfair competition in violation of New Jersey Trade-marks and Unfair Trade Practices Act; and (5) common law unfair competition.

3. Plaintiff seeks: (i) preliminary and permanent injunctions ordering Defendant to cease all unauthorized use and advertising of the confusingly similar Musical Pens and Talking Bottle Openers; (ii) an order that Defendant pay for and execute corrective advertising of such previous advertising displaying the confusing similar Musical Pens and Talking Bottle Openers; (iii) destruction of all remaining confusingly similar Musical Pens and Talking Bottle Openers by Defendant; and (iv) an award of actual damages, punitive damages, Defendant's gains and profits, and Attorney's fees in an amount not less than \$1,000,000.

PARTIES

4. Plaintiff is an individual residing in the state of California, and since 2009 has been doing business under the fictitious business name, Pacific Productions with an address at 44489 Town Center # 489D, Palm Desert, CA 92260.

5. Upon information and belief, Defendant is a New Jersey limited liability company with its principal place of business at 400 Raritan Center Parkway, Suite E, Edison, NJ 08837.

NATURE OF ACTION

6. This civil action for trade dress infringement and unfair competition in which Plaintiff seeks an injunction, monetary damages, and other appropriate relief, arises and is brought under the patent laws of the United States, 35 U.S.C. §§ 1 et seq., the trademark laws of the United States, 15 U.S.C. §1125(a), the laws of the State of New Jersey, and the common law.

SUBJECT MATTER JURISDICTION

7. Jurisdiction is based on 28 U.S.C. §1331 (federal question) and §1338(a) (a civil action arising under any act of Congress relating to trademarks), as well as under 35 U.S.C. §§ 1 et seq., and the Lanham Act, 15 U.S.C. §1121(a).

8. This Court has supplemental jurisdiction over Plaintiff's claims arising under New Jersey state law pursuant to 28 U.S.C. §1367.

VENUE

9. Venue is properly laid in this District of New Jersey pursuant to 28 U.S.C. §1391(b) because the claim of trademark and trade dress infringement by Defendant against Plaintiff arose in this district and Defendant is transacting business within this district.

BACKGROUND FACTS

10. Plaintiff is an inventor, designer, and distributor of his own consumer products for the past 20 years.

11. In or about March 2006, Plaintiff designed a pen (the “Musical Pen”), having a unique and distinctive ornamental and functional design and filed for a design patent. United States Design Patent Number D553,678S (the “Pen Patent”), was issued by the United States Patent Office with an issue date of October 23, 2007. A true and correct copy of the Pen Patent is attached as **Exhibit B**.

12. Plaintiff is the owner, inventor, designer, and wholesale seller of the talking bottle opener (defined above as the "Talking Bottle Opener"). An example of Plaintiff's Talking Bottle Opener design is attached hereto as **Exhibit A**.

13. The Talking Bottle Opener and the Musical Pen (defined above as “Plaintiff's Products”), are uniquely designed with proprietary subject matter that incorporate electronic, chip-based, sound-activation elements capable of reproducing pre-recorded voices and music.

14. Since its introduction, Plaintiff's Products have been extremely successful. Plaintiff made licensing deals with: over sixty-one National Collegiate Athletic Association schools, Major League Baseball, the National Association for Stock Car Auto Racing, the National Football League, and movie and television studios to incorporate Plaintiff's Products with their particular logos and sounds.

15. Plaintiff is the founder and president of Pacific Direct, Inc. a Washington Corporation. Plaintiff handled all the business operations for Plaintiff's Products through Pacific Direct, Inc. from approximately 2001 - 2008. Beginning around 2009, Plaintiff, handled all business operation for Plaintiff's Product under the fictitious business name, Pacific Productions.

16. Plaintiff, while operating Pacific Direct Inc., primarily sold its products to retailers totaling over 11,000 accounts including major retail chains such as: Bed Bath and Beyond, Macy's, Dillard's, and Target.

17. Between 2001 and 2015, Plaintiff is informed and believes that Plaintiff's Products have sold over 10 million units worldwide.

18. Plaintiff has invested substantial resources in creating a distinctive design and appearance for Plaintiff's Products and product packaging, and in advertising, promoting, distributing, offering for sale, and/or selling.

THE TALKING BOTTLE OPENER – TRADE DRESS INFRINGEMENT

19. When the Talking Bottle Opener was introduced to the market, it was the only item of its kind on sale. In order to protect itself from future competitors, Plaintiff adopted creative and original designs and commenced use of, and continues to use the following but not limited to:

- The original and creative shape of the plastic handle;
- The "C" shape of the metal opener;
- The no—button activation technology;
- The weight and length of the packaging;
- The intentional use of a single solid color on every bottle opener;
- The use and placement of a single licensed image below the speaker holes;
- The original and creative circular design of speaker holes;
- The eight speaker holes, with one in the middle;
- The placement of speaker holes in the middle of the handle;
- The quality of sound;
- The length of time each sound plays;

- The triggering of the sound by pressure on the metal opener;
- "Pacific Direct" and/or "Pacific Productions" warranty on the back of each package.

20. Taken together, these non-functional, distinctive, original, and arbitrary choices created Plaintiff's protectable trade dress ("Plaintiff's Trade Dress") in the Talking Bottle Opener.

21. Plaintiff's Trade Dress listed above serves to identify and distinguish Plaintiff's Talking Bottle Opener which includes designs and features that are inherently distinctive and/or have acquired a secondary meaning.

22. Plaintiff has been continuously selling thousands of units of the Talking Bottle Opener each year since October 2001 while operating Pacific Direct Inc., and also as an individual d/b/a Pacific Productions.

23. Plaintiff has achieved worldwide fame and notoriety for creating the Talking Bottle Opener. Plaintiff and the Talking Bottle Opener were the subject of the film, "Ingenious" starring two-time Academy Award Nominee, Jeremy Renner, and two-time Screen Actor Guild Nominee, Dallas Roberts. Ingenious is a biographical film about Plaintiff's achievement of the American dream of inventorship and the ultimate worldwide success of the Talking Bottle Opener. During 2009, "Ingenious" was screened around the world during the film festival circuit and appeared at 10 film festivals in cities ranging from Santa Barbara to Jerusalem. In addition, the film was also purchased by Wrecking Hill, with United States distribution by Lionsgate.

24. "Ingenious" is available throughout the world through streaming on Amazon.com, and also on DVD in various languages. The film has various titles and translations throughout the world such as: "Golpe de Gênio" in Brazil, "Ingénieux" in French-Canadian translations, "Une idée de génie" in France, and "Marifetli" in Turkey.

25. Upon information and belief, Defendant, with actual and/or constructive notice of Plaintiff's Trade Dress and the extensive and continuous use of same, has manufactured, advertised,

distributed in commerce, offered and/or sold products that unlawfully infringe Plaintiff's Trade Dress.

THE MUSICAL PEN – PATENT INFRINGEMENT

26. When the Musical Pen was introduced to the market, it was the only item of its kind on sale. In order to protect itself from future competitors, Plaintiff secured the Pen Patent for its creative and original designs and commenced use of, and continues to use the following but not limited to:

- The eight speaker holes, with one in the middle;
- The placement of speaker holes in the middle of the handle;
- The original and creative shape of the barrel and ink chamber;
- The weight and length of the packaging;
- The intentional use of a single solid color on every pen;
- The use and placement of a single licensed image on the pen barrel;
- The original and creative design of speaker holes;
- The length of time each sound plays
- The triggering of the sound by pressure on the press-down button design;
- Pacific Direct" and/or "Pacific Productions" warranty on the back of each package.

27. Upon information and belief, Defendant knew or should have known of Plaintiff's rights in the Pen Patent. At the very least, a reasonable investigation would have revealed that the designs were and are proprietary to Plaintiff.

DEFENDANT'S INFRINGEMENT

28. In and around March 2016, Plaintiff became aware of Defendant's various musical bottle openers and musical pens displaying various sport teams, both professional and on the collegiate

level (collectively, the “Infringing Products”). Images comparing some of the Plaintiff's Products and Trade Dress and some of the Infringing Products are attached hereto as **Exhibit C**.

29. Plaintiff promptly began to investigate the Infringing Products and quickly discovered that they were practically identical knock-offs of Plaintiff's Products.

30. Upon information and belief, Defendant offers the Infringing Products both as wholesalers and to retailers. Upon information and belief, Defendant offers the Infringing Products for sale directly from its store and at various conventions it attends and also has an Amazon online store under the name "Fanatic Group."

31. Upon information and belief, Defendant currently has at least 99 various confusingly similar variations of the Talking Bottle Opener and Musical Pen Infringing Products with over 20,000 individual units on hand.

32. Upon information and belief, Defendant should have had prior knowledge of Plaintiff's ownership rights over Plaintiff's Products as Plaintiff is well known and has sold over 10 million units of the Products and was the subject of a feature film.

33. Upon information and belief, Defendant without Plaintiff's license, approval, permission or consent has engaged in the manufacture, advertising, distribution in commerce, offering for sale and/or sale of the Infringing Products.

34. Upon information and belief, Defendant's actions have been knowing, willful and malicious.

35. Defendant's use of Plaintiff's Trade Dress deprives Plaintiff of the opportunity to exercise its exclusive right to exploit the substantial goodwill Plaintiff developed in association with the Trade Dress.

36. Upon information and belief, Defendant's Infringing Products have caused, is causing, and will continue to cause damage to Plaintiff's reputation and goodwill and to the value of Plaintiff's Trade Dress. Plaintiff has no way to control what goods and/or services are sold, or offered for sale, or what goods and/or services Defendant intends to offer, under its use of the Infringing Products. Therefore, the reputation, goodwill, and standards of excellence Plaintiff has worked to achieve will be in jeopardy. Any problems that arise in connection with Defendant's use or intended use of the Infringing Products will negatively and detrimentally impact Plaintiff and the trust Plaintiff has worked to gain among its customers and the consuming public at large.

37. Furthermore, the Infringing Products are virtually identical to Plaintiff's Trade Dress and has caused actual confusion.

38. Defendant's infringement of Plaintiff's Pen Patent deprives Plaintiff of the opportunity to exercise its exclusive right to exploit the substantial goodwill Plaintiff developed in association with the Musical Pen.

39. Plaintiff lacks an adequate remedy at law.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. D553,678 S

(35 U.S.C. §271(a))

40. Plaintiff repeats and re-alleges the allegations in preceding paragraphs as if set forth fully herein.

41. Plaintiff is the owner of the Pen Patent. Plaintiff has complied with the provisions of the United States patent laws at 35 U.S.C. §1 et seq. with respect to that patent.

42. Plaintiff has not authorized Defendant to make, use, offer for sale, sell, or import product infringing Plaintiff's patents.

43. Defendant has infringed the Pen Patent by, among other things, making, using, importing, advertising, offering for sale, and selling pens that infringe on Plaintiff's Pen Patent, without Plaintiff's permission or authority.

44. Plaintiff has suffered damages in an amount subject to proof at trial, but in no event less than a reasonable royalty under 35 U.S.C. §284, at Plaintiff's election.

45. Upon information and belief, Defendant knew of Plaintiff's exclusive rights in the patented design at the time the infringing activity occurred. Nevertheless, Defendant proceeded knowingly, willfully, and with malicious disregard for Plaintiff's rights to infringe Plaintiff's Pen Patent. Plaintiff is therefore entitled to an amount which is treble the amount of Plaintiff's damages found or assessed and Defendant should not be allowed to take any deductions from their revenue in computing profits which should be disgorged and awarded to Plaintiff.

46. Pursuant to 35 U.S.C. §289 Plaintiff seeks the additional remedy of Defendant's revenues attributable to its infringement. In addition, Plaintiff seeks an accounting of Defendant's profits, as well as interest in costs.

47. Based on Defendant's willful infringement, this is an "exceptional" case which entitles Plaintiff to attorney's fees pursuant to 35 U.S.C. §285.

48. Defendant has caused, and will continue to cause, irreparable injury to Plaintiff by infringement of Plaintiff's Pen Patent.

COUNT II

FEDERAL TRADE DRESS INFRINGEMENT

(15 U.S.C. §1125 (A))

49. Plaintiff repeats and re-alleges the allegations in preceding paragraphs as if set forth fully herein.

50. Since as early as October 2001, Plaintiff continuously used Plaintiff's Trade Dress in international and/or interstate commerce to identify the Talking Bottle Opener and to distinguish it from others. The trade dress described hereinabove, is comprised of distinctive features which are protected under the Lanham Act § 43, as amended, 15 U.S.C. § 1125(a). Plaintiff's Trade Dress is either inherently distinctive or, as a result of its use, has acquired secondary meaning whereby the relevant consuming public and trade associates these features with a single source, Plaintiff.

51. Upon information and belief, commencing at some time unknown to Plaintiff and continuing for an unknown time, Defendant, without Plaintiff's consent, has manufactured, advertised, offered for sale and/or engaged in the sale and distribution and/or used in commerce of 99 variations of the Infringing Products.

52. Defendant has without permission, willfully, and with the intention of benefiting from the reputation and good will of Plaintiff, copied each and every detail of Plaintiff's Trade Dress.

53. Defendant knew or should have known about Plaintiff and Trade Dress as Plaintiff is well known worldwide and has sold over 10 million units of its products.

54. There is a high likelihood of confusion to consumers between the Talking Bottle Opener and the Infringing Products.

55. As a consequence, the Infringing Products are likely to deceive, divert and has deceived and diverted customers away from the genuine Talking Bottle Opener/Trade Dress.

56. The Defendant's conduct, as alleged in the foregoing paragraphs, constitutes trade dress infringement in violation of Section 43 (a) of the Lanham Act (15 U.S.C. §1125(a)), which prohibits the use in commerce in connection with the sale of goods or rendering of any services of any word, term, name, symbol, or device, or any combination thereof which is likely to cause confusion, or to cause mistake, or to deceive as to the source of the goods or services.

57. As a direct and proximate result of the willful and wanton conduct of the Defendant, Plaintiff has been injured and will continue to suffer irreparable injury to its business and reputation unless Defendant is restrained by the Court from infringing the Plaintiff's Trade Dress.

58. Plaintiff has no adequate remedy at law and is entitled to injunctive relief pursuant to 15 U.S.C. §1116(d).

59. Plaintiff is entitled to recover its actual damages and Defendant profits pursuant to 15 U.S.C. §1117(a); damages and attorneys' fees and costs pursuant to 15 U.S.C. (a) and (b) seizure of all infringing goods pursuant to 15 U.S. C. §1116(d); and impoundment and destruction of all infringing goods pursuant to 15 U. S.C. §1118.

COUNT II

FALSE DESIGNATION OF ORIGIN

(15 U.S.C. §1125(a))

60. Plaintiff repeats and re-alleges the allegations in preceding paragraphs as if set forth fully herein.

61. The Talking Bottle Opener is nonfunctional and its inherently distinctive quality has achieved a high degree of consumer recognition and serves to identify Plaintiff as the source of these exact goods.

62. The Defendant's promotion, advertising, distribution, sale and/or offering for sale identical talking bottle openers is intended, and is likely to confuse, mislead, or deceive consumers, the public, and the trade as to the origin, source, sponsorship, or affiliation of said products, and is intended, and is likely to cause such parties to believe in error that Defendant's Products have been authorized, sponsored, approved, endorsed or licensed by Plaintiff, or that Defendant is in some way affiliated with Plaintiff.

63. Defendant's use of Plaintiff's Trade Dress is without Plaintiff's permission or authority and is in total disregard of Plaintiff's trade dress rights.

64. Defendant's acts have damaged and will continue to damage Plaintiff, and Plaintiff has no adequate remedy at law.

65. In light of the foregoing, Plaintiff is entitled to injunctive relief prohibiting Defendant's from using Plaintiff's Trade Dress, or any Trade Dress confusingly similar thereto, and to recover all damages, including attorney's fees, that Plaintiff has sustained and will sustain, and all gains, profits and advantages obtained by Defendant as a result of their infringing acts alleged above in an amount not yet known, as well as costs of this action.

COUNT III
UNFAIR COMPETITION IN VIOLATION OF NEW JERSEY LAW
(N.J. Stat. §56:4-1)

66. Plaintiff repeats and re-alleges the allegations in the preceding paragraphs as if set forth fully herein.

67. The above described use by Defendant of trade dress and references confusingly similar to Plaintiff's Trade Dress and Defendant's other conduct set out above falsely suggests an association with, sponsorship by, licensing by or authorization by Plaintiff.

68. Upon information and belief, the above described use by Defendant of trade dress, confusingly similar to Plaintiff's Trade Dress for a line of products similar to those sold and/or licensed by Plaintiff, and its other conduct set out above, was calculated to deceive or confuse the public and to profit unjustly from the goodwill and reputation of Plaintiff.

69. The wrongful conduct alleged herein constitutes unlawful, unfair and/or misappropriation under the New Jersey Trade-marks and Unfair Trade Practices Act. *N.J.S.A. 56:4-1*.

70. Plaintiff alleges upon information and belief that Defendant undertook the acts alleged above willfully, for the purpose of enriching itself to Plaintiff's detriment.

71. Plaintiff is entitled to actual, indirect, and/or trebled damages as a direct and proximate result of Defendant's unlawful and/or unfair business acts or practices pursuant to N.J.S.A. 56:4-2.

72. Defendant threatens to continue to do the acts complained of herein, and unless restrained and enjoined, will continue to do so, to Plaintiff's irreparable harm and detriment. It would be difficult to ascertain the amount of compensation that could afford Plaintiff relief for such continuing acts, and multiplicity of judicial proceedings would be required. Plaintiff's remedy at law is not adequate to compensate for its injuries threatened.

COUNT IV

COMMON LAW UNFAIR COMPETITION

73. Plaintiff repeats and re-alleges the allegations in the preceding paragraphs as if set forth fully herein.

74. The above described use by Defendant of trade dress and references confusingly similar to the Plaintiff's Trade Dress and Defendant's other conduct set forth above falsely suggests an association with, sponsorship by, licensing by or authorization by Plaintiff, thus creating a likelihood of confusion among the relevant consuming public.

75. Upon information and belief, Defendant's unprivileged imitation of the physical appearance of Trade Dress, and its other conduct as set out above, was calculated to deceive or confuse the public and to profit unjustly from the goodwill and reputation of Plaintiff. Defendant's actions constitute unfair competition with Plaintiff under the laws of the State of New Jersey.

76. As a direct and proximate result of the willful and wanton conduct of the Defendant, Plaintiff has been injured and will continue to suffer irreparable injury to its business and reputation unless Defendant is restrained by the Court from unfairly competing with Plaintiff.

77. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following judgment against Defendant:

1. Preliminarily, during the pendency of this action, and permanently after final hearing, enjoining Defendant from:

a. Making any unauthorized use of Plaintiff's Trade Dress and/or Plaintiff's Pen Patent, or any reproduction, counterfeit, copy or colorable imitation thereof, in connection with the sale of any goods or rendering of any services;

b. Manufacturing, distributing, advertising, marketing, promoting, offering for sale, or selling any goods, promotional materials and the like bearing a reproduction, counterfeit, copy or colorable imitation of Plaintiff's Products and trade dress and/or patent rights rights thereto;

c. Using any trade dress that may be calculated to falsely represent, or that has the effect of falsely representing, that the services or products of Defendant are sponsored by, originate with, or are in any way approved by Plaintiff.

d. Falsely representing itself or its goods or services as affiliated, connected or associated with Plaintiff.

e. Assisting, aiding, or abetting any other person or entity from engaging in any of the acts set forth in (a) through (e) above;

2. Requiring Defendant to pay Plaintiff damages sustained as a result of the infringement to Plaintiff's Trade Dress and acts of unfair competition, pursuant to 15 U.S. C. §1117 (a) and common law, in no event less than \$1,000,000.

3. Requiring Defendant to pay Plaintiff damages in accordance with 35 U.S.C. §284, including actual damages, and in no event less than a reasonable royalty.

4. Requiring Defendant to pay an award of treble the amount of damages found and assessed under 35 U.S.C. §284.

5. Requiring Defendant to pay the “total profit” Defendant have made pursuant to 35 U.S.C. §289.

6. Requiring Defendant to account for and pay over to Plaintiff all gains, profits and advantages derived by it from its respective trade dress infringement, and unfair competition, pursuant to 15 U.S.C. §1117(a) and common law.

7. Ordering Defendant to pay as damages for its conduct alleged herein a sum equal to three times the amount of the actual damages suffered by Plaintiff.

8. Ordering Defendant to pay an appropriate amount as punitive damages to deter willful and wanton conduct such as theirs and to avoid future confusion or deception of the public and unfair competition with Plaintiff.

9. Ordering Defendant to pay for corrective advertising in each and every publication in which it advertised any of the Infringing Products and any other goods that infringe Plaintiff's Trade Dress, such corrective advertisements to be of comparable size as such prior advertising.

10. Ordering Defendant to sequester, forfeit and deliver up for destruction, all Infringing Products and components thereof in its possession or control, or in the possession or control of any of its agents, and any and all other goods that infringe Plaintiff' s Trade Dress, pursuant to 15 U.S. C. §§ 1116 and 1118.

11. Directing that Defendant deliver up for destruction, all catalogues, advertising and promotional materials in its possession, custody or control or in the possession, custody or control of any of its agents that feature any of the Infringing Products and any other goods that infringe Plaintiff's Trade Dress, or that the Court shall find to have facilitated Defendant's acts of unfair competition with Plaintiff, pursuant to 15 U.S. C. §§ 1116 and 1118.

12. Declaring this case to be an exceptional case within the meaning of 15 U.S. C. §1117.
13. Awarding Plaintiff its costs and attorneys' fees incurred in this action pursuant to 15 U.S.C. §1117 (a) and/or 35 U.S.C. §285; and
14. For such other and further relief as the Court deems just, equitable and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all claims for relief alleged herein on which Plaintiff has a right to trial by jury.

Dated: September 4, 2018

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/s/ Bradley S. Rothschild

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Attorneys for Plaintiff

Michael Cram d/b/a Pacific Productions

L. CIV.R. 11.2 CERTIFICATION

Plaintiff is not aware of any other action, or any pending arbitration or administrative proceeding relating to the matter in controversy.

/s/ *Bradley S. Rothschild*

Bradley S. Rothschild, Esq.

Exhibit A

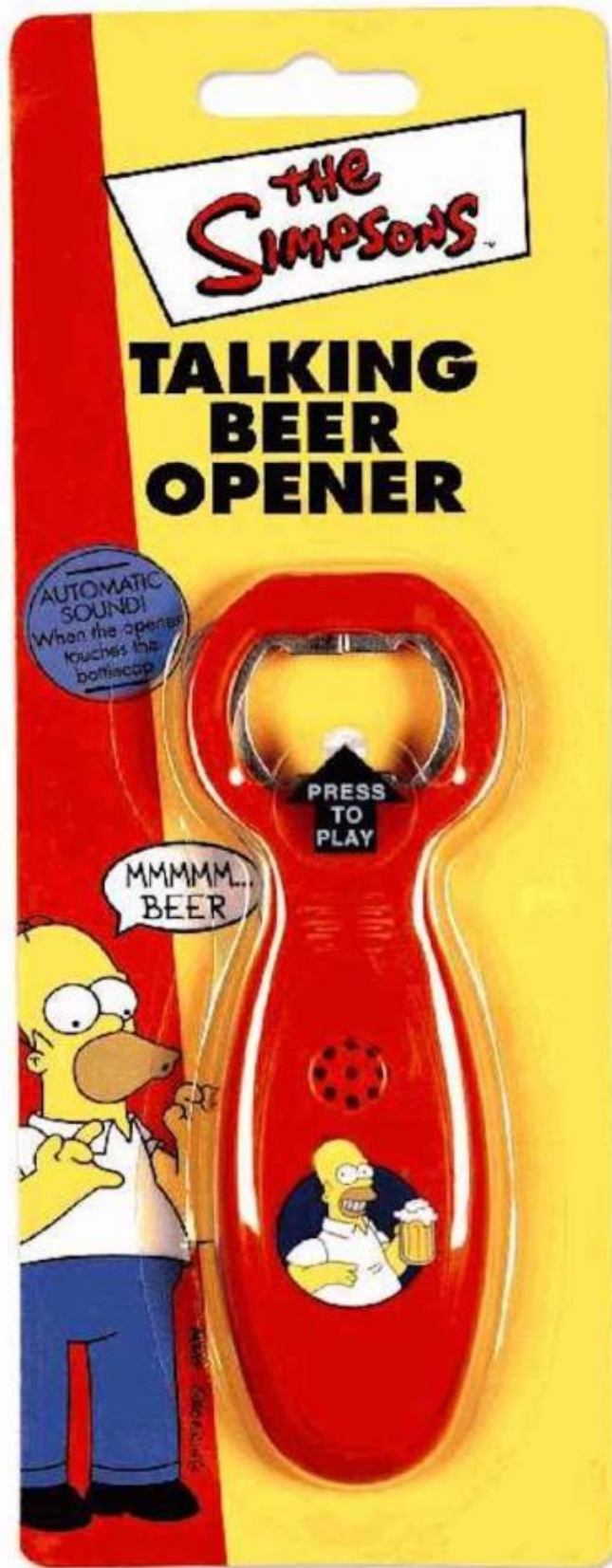




Exhibit B



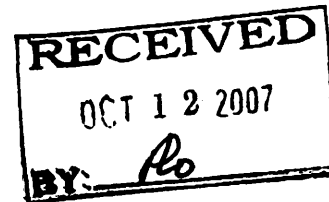
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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/256,356	10/23/2007	D553678	401.06-2.2	8787

25675 7590 10/03/2007

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ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Extension or Adjustment under 35 U.S.C. 154 (b)

Design patents have a term measured from the issue date of the patent and the term remains the same length regardless of the time that the application for the design patent was pending. Since the above-identified application is an application for a design patent, the patent is not eligible for Patent Term Extension or Adjustment under 35 U.S.C. 154(b).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Michael S. Cram, Poulsbo, WA;

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U.S. Patent

Oct. 23, 2007

Sheet 2 of 2

US D553,678 S

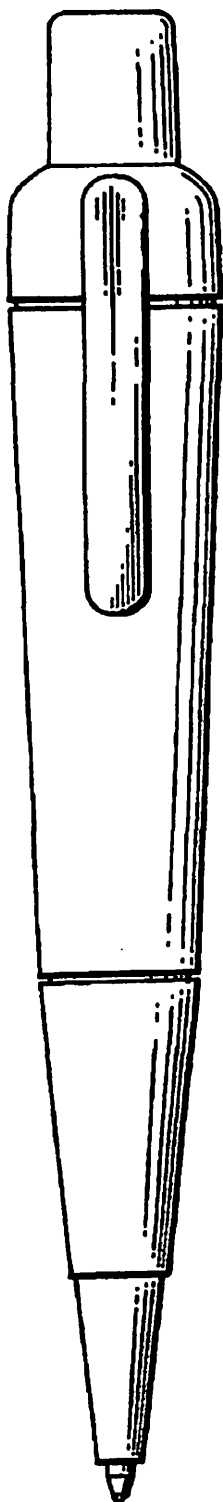


FIG. 2

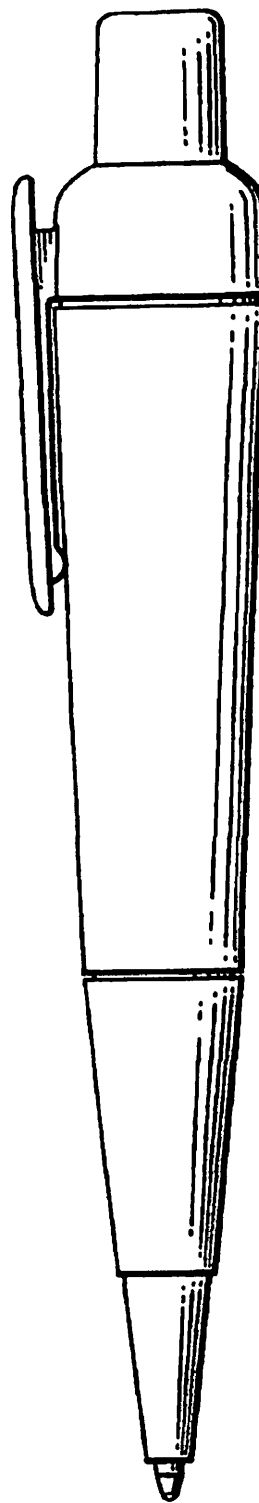
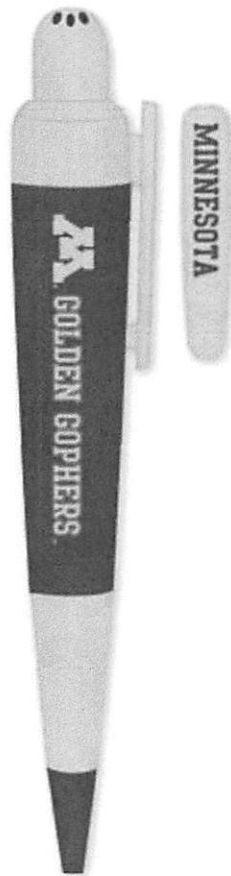


FIG. 3

3



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Ship to **92260**

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US00D553678S

(12) **United States Design Patent** **Cram**

(10) Patent No.:

US D553,678 S

(45) Date of Patent:

**** Oct. 23, 2007**(54) **WRITING PEN**

(76) Inventor: **Michael S. Cram**, 26285 Twelve Trees
La., P.O. Box 2110, Poulsbo, WA (US)
98370

(**) Term: **14 Years**(21) Appl. No.: **29/256,356**(22) Filed: **Mar. 17, 2006**(51) LOC (8) Cl. **19-06**(52) U.S. Cl. **D19/46**(58) Field of Classification Search **D19/35.****D19/36, 41-51; 24/11 R, 11 F, 11 P; 401/52.****401/99, 100, 104, 105, 106, 107, 108, 109.****401/192, 195, 196**

See application file for complete search history.

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* cited by examiner

Primary Examiner—Elizabeth A. Albert

(74) Attorney, Agent, or Firm—Polly L. Oliver

(57)

CLAIM

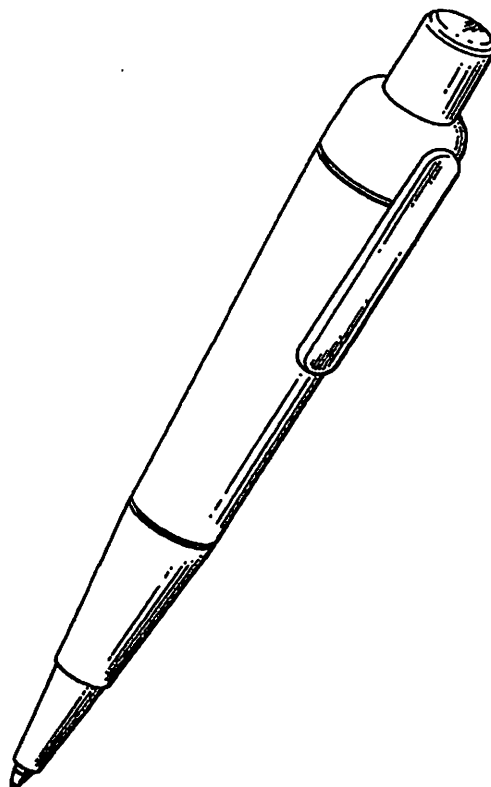
I claim the ornamental design for a writing pen, as shown
and described.

DESCRIPTION

FIG. 1 is a perspective view of the writing pen showing my
new design;

FIG. 2 is a front view thereof; and,

FIG. 3 is a left side view thereof; the right side view is
understood to be a mirror image of the left side and is
therefore not shown.

1 Claim, 2 Drawing Sheets

2/2

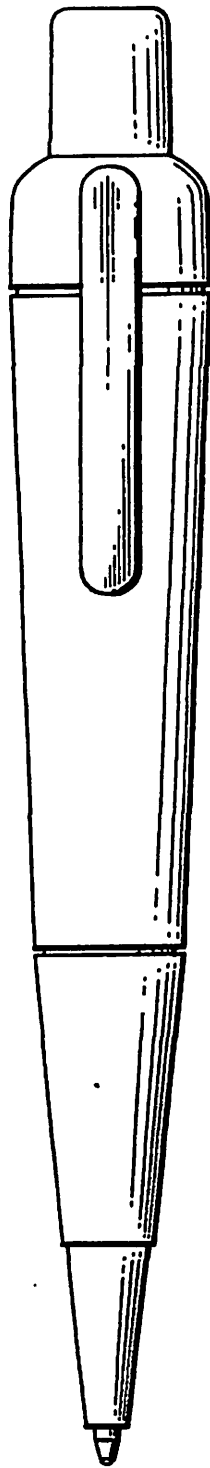


FIG. 2

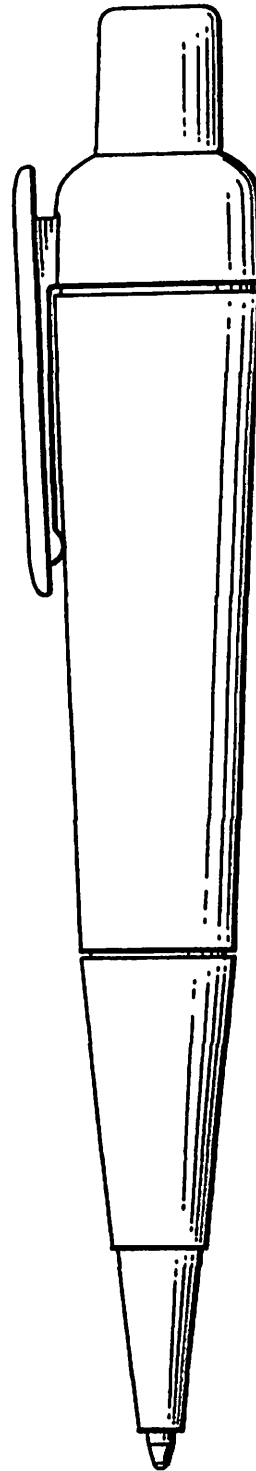


FIG. 3

Exhibit C

Walmart.com

Departments

All musical bottle opener

x

Q

Reorder Items

Barbara

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See all Departments

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Category

☐ Cookware Sets☐ Dinnerware Sets☐ Blenders☐ Countertop Microwaves

See more categories



Washington Huskies Fight Song Musical Bottle Opener
\$10.99

Washington Huskies Fight Song Musical Bottle Opener

Sold & Shipped by TeamStores
FREE SHIPPING



Oklahoma State Cowboys Fight Song Musical Bottle Opener
\$11.99

Oklahoma State Cowboys Fight Song Musical Bottle Opener

Sold & Shipped by TeamStores



Nebraska Cornhuskers Fight Song Musical Bottle Opener
\$11.99

Nebraska Cornhuskers Fight Song Musical Bottle Opener

Sold & Shipped by TeamStores



Musical note bottle opener favors pack of 20
\$51.33

Musical note bottle opener favors pack of 20

Sold & Shipped by ADVENTURER'S
FREE SHIPPING



Musical Note Bottle Opener
\$6.49

- One bottle opener.
- Music note opener is approximately 2 inches long.
- Musical note bar accessory with attached keychain.
- Music note is made of metal.
- No wrapping necessary.

Sold & Shipped by Century Novelty
FREE SHIPPING



Musical note bottle opener favors pack of 40
\$81.07



Musical note bottle opener favors pack

Sold & Shipped by ADVENTURER'S
FREE SHIPPING



Musical note bottle opener favors pack of 24
\$56.84

Musical note bottle opener favors pack

Sold & Shipped by ADVENTURER'S
FREE SHIPPING



Trombone Musical Instrument Music Brass Green Keychain **Bottle Bottlecap Opener**
\$9.77

- This keyring is the perfect fusion of functionality and personality
- Chrome-plated metal keychain feat working bottlecap opener on the oppo

FREE SHIPPING on orders \$35+
FREE PICKUP



Colorado Buffaloes Gold Musical Bottle Opener
\$112.33

Features :

- **Bottle Opener**
- If you would like these personalized branded, please contact sales@dynagi
- Officially Licensed Collegiate Prodi

Sold & Shipped by Growkart
FREE SHIPPING



Musical note bottle opener favors pack of 60
\$111.51

Musical note bottle opener favors pack

Sold & Shipped by ADVENTURER'S
FREE SHIPPING



Musical note bottle opener favors pack of 30
\$67.45

Musical note bottle opener favors pack

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FREE SHIPPING



Musical note bottle opener favors pack of 19
\$49.95

Musical note bottle opener favors pack

Sold & Shipped by ADVENTURER'S
FREE SHIPPING



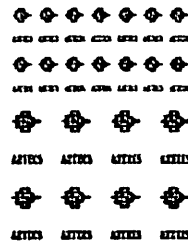
\$11.99



\$11.99

Utah Utes Musical Pen

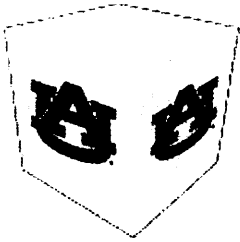
Sold & Shipped by TeamStores



\$10.79

San Diego State Aztecs Small Sticker Sheet - 2 Sheets

Sold & Shipped by TeamStores



\$19.95

Auburn Tigers Sticky Note Memo Cube - 550 Sheets

Sold & Shipped by TeamStores



\$10.79

Rutgers Scarlet Knights Small Sticker Sheet - 2 Sheets

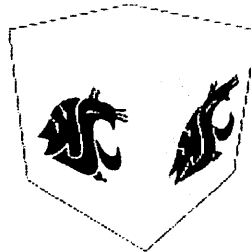
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\$11.95

Colorado Buffaloes Post-it Note Cube - Team Color

Sold & Shipped by Campus Colors



\$13.99

Washington State Cougars Sticky Note Memo Cube - 550 Sheets

Sold & Shipped by TeamStores

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eBay



\$19.22
eBay



\$11.99
eBay



\$9.99
Teamstores



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USC (University of Southern California) Musical Pen



Pacific Direct MUSICAL PEN

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USC (University of Southern California) Musical Pen Description:

Go Trojans! Advertise your USC allegiance with this University of Southern California musical pen. Play the Trojan fight song any time you like... to annoy UCLA or Notre Dame supporters and any other non-believers in your vicinity! The top-quality, retractable ballpoint pen with rubber grip is easily refillable and comes with batteries included. Don't go to the big game without it!

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Pacific Direct Talking Bottle Opener

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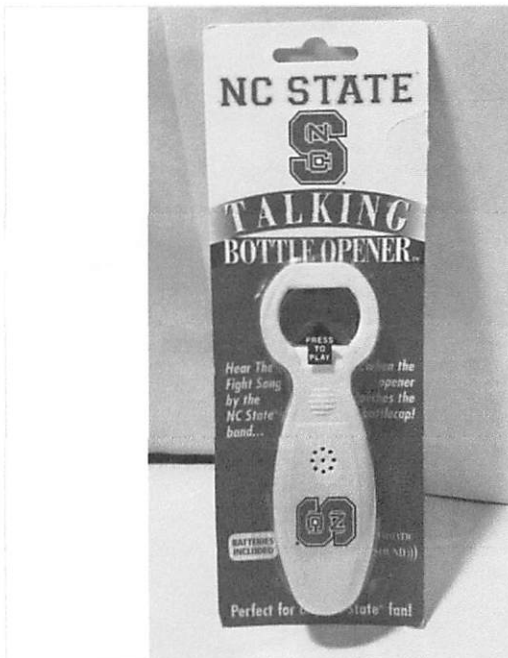
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NC State Talking Bottle Opener N C Band Playing the Fight Song



\$14.95

+ \$2.95 Shipping

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Bonney Lake, Washington

- New condition
- Returns accepted - 60 days money back

*"Talking Bottle Opener Nc State
Playing the Fight Song."*

Read full description

See details >

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Watch

Sold by

v_g_p (5745)

100.0% Positive feedback

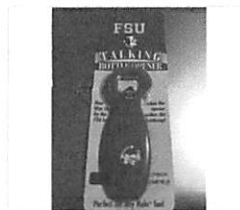
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Bottle Opener N D



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Ut. uij Blug MuYi. tti. Oñngr



SIZE : NA

NA (/St-Louis-Blues-Musical-Bottle-Opener-21230184?custcol_hardline_sizes=NA)

QUANTITY

1

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ITEM: #21230184

Shipping Notes:

- In Stock - Ships Immediately



Pick Up in Store Today (/faq#inStorePickup)
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Product Details

Open a bottle with STL Blues pride with this St Louis Blues Bottle Opener. This Bottle Opener features a team logo and plays team themed music. This Bottle Opener is a must-have for any Blues fan's bar. Long Live the Note!

WRITE A REVIEW (St-Louis-Blues-Musical-Bottle-Opener-21230184/reviews/new)

Members of the Central Division of the National Hockey League (NHL), the St. Louis Blues were named after the famous W. C. Handy song 'Saint Louis Blues.' Playing out of the Scottrade Center, the STL Blues are the oldest NHL team never to have won the Stanley Cup. Heading to the rink, make sure to pay attention to the long-standing tradition of live organ music before the game, between periods and after goals. Don't go to a game without showing your colors; swing by one of the 5 Rally House St. Louis locations for all your Blues **apparel** (/nhl/w-st-louis-blues/type/apparel) and **accessories** (/nhl/w-st-louis-blues/type/accessories). With great brands such as Reebok, Adidas, New Era and Retro Brand, Rally House has the largest selection of gameday gear. As a Rally House shopper, you have access to discounts, ticket giveaways, and local player appearances when signing up for Rally Rewards. While we pride ourselves on outstanding customer service, we also take pride in our teams; just like you. LET'S GO BLUES!

Ut. uij Blug Drinkwra
 (/nhl/w-st-louis-blues/f/drinkware)

Ut. uij Blug Ut. rai
 (/nhl/w-st-louis-blues/f/drinkware)

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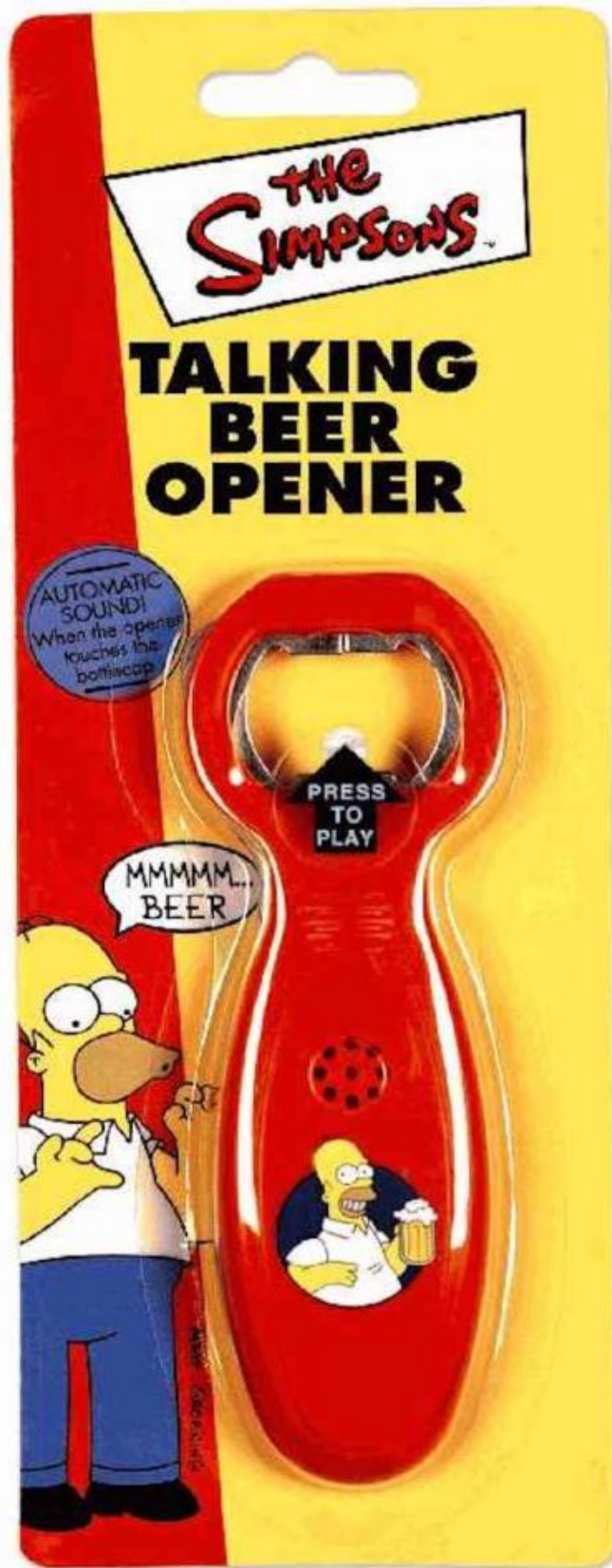


Colorado Rockies Musical Bottle Opener

Your Price: \$9.99

Quantity 1

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Buckeye fans will love this Ohio State musical pen. Hear the college fight song and annoy all those Wolverine fans! The retractable ballpoint pen with rubber grip is easily refillable and comes with batteries included. Buckeye fans will love this Ohio State musical pen. Hear the college fight song and annoy all those Wolverine fans! The retractable ballpoint pen with rubber grip is easily refillable and comes with batteries included.

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Michigan State Spartans Musical Pen

\$9.99 from Teamstores 91% positive (169)

Hear the college fight song at the press of a button. Features retractable ballpoint, rubber grip and refillable ink reservoir ...

Ballpoint



Arkansas Razorbacks Musical Pen

\$11.99 from 5+ stores

Hear the college fight song at the press of a button. Features retractable ballpoint, rubber grip and refillable ink reservoir ...

Ballpoint

Other team options: Arizona Wildcats (\$10) Auburn Tigers (\$10)



Mississippi Ole Miss Rebels Musical Pen

\$11.99 from 3 stores

Hear the college fight song at the press of a button. Features retractable ballpoint, rubber grip and refillable ink reservoir ...

Ballpoint



Pacific Direct Indiana University Musical Pen

from Goal Performer

Ballpoint

Hear the college fight song at the press of a button. Features retractable ballpoint, rubber grip and refillable ink reservoir. Batteries included!

Other options ▾

\$39.90

+\$3.49 tax. Free shipping

Goal Performer

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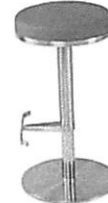
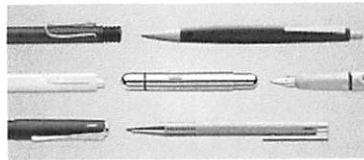
medium

blue

star

bottle opener

tip





Texas Tech Red Raiders Musical Pen

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Texas Tech Red Raiders Musical Pen

Product Code: TT-035

Our Price: \$9.99



Availability: Usually Ships in 24-48 Hours

Description

Hear the college fight song at the press of a button. Features retractable ballpoint, rubber grip and refillable ink reservoir. Batteries included!